

CHAPTER ONE

PURPOSE AND NEED FOR ACTION



1. PURPOSE AND NEED FOR ACTION

1.1 INTRODUCTION

This draft environmental impact statement/environmental impact report (DEIS/EIR) analyzes several proposed actions by the Secretary of the Interior, the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the California Department of Forestry and Fire Protection (CDF), the California Department of Fish and Game (CDFG), and the Wildlife Conservation Board (an agency within the CDFG). These actions would involve the acquisition of private forest lands by the United States and California, transfer of some lands to The Pacific Lumber Company, and issuance of environmental permits (as appropriate) related to timber harvesting. The DEIS/EIR includes alternatives to those actions to (1) protect, in accordance with the federal and state of California endangered species acts (ESAs), species listed as threatened or endangered under one or both of the acts; (2) provide for sustained production of timber products consistent with federal and state laws, including the federal and state ESAs, by The Pacific Lumber Company and its wholly owned subsidiaries, Scotia Pacific Company LLC, and Salmon Creek Corporation (hereafter collectively referred to as "PALCO"); (3) provide permanent protection for the Headwaters and Elk Head Springs forests through their transfer into public ownership; and (4) reduce public controversy regarding PALCO's management of its timberlands, particularly the Headwaters and Elk Head Springs forests.

1.1.1 Background

PALCO has been managing forest lands in Humboldt County, California, for over 100 years. In 1986, MAXXAM Incorporated (MAXXAM) purchased The Pacific Lumber Company, including its name, facilities, and approximately 200,000 acres of timberland. Subsequently, the Salmon Creek Corporation and Scotia Pacific Company LLC (formerly Scotia Pacific Holding Company), were formed as wholly owned subsidiaries of The Pacific Lumber Company. Approximately 6,000 acres of forest lands, including the Headwaters Forest, were transferred to the Salmon Creek Corporation, while other forest lands were transferred to the Scotia Pacific Company, LLC. The Pacific Lumber Company retains ownership of most of its forest lands, as well as sawmills.

A 5,625-acre portion of PALCO's property includes the Headwaters and Elk Head Springs forests comprising the largest grouping of old-growth redwoods on private land. These and other PALCO old-growth redwood forests are important habitat for the marbled murrelet (*Brachyramphus marmoratus*), which was listed as endangered under the California Endangered Species Act (CESA) in 1991 and was listed as threatened under the federal Endangered Species Act (ESA) in 1992. These areas also provide important habitat for the northern spotted owl (*Strix occidentalis caurina*), federally listed as threatened in 1990, and for other listed species as well. PALCO lands also include stream habitat for the coho salmon (*Oncorhynchus kisutch*); steelhead (*Oncorhynchus mykiss*), a candidate species

for listing in the northern California evolutionarily significant unit (ESU); chinook salmon (*Oncorhynchus tshawytscha*), proposed as threatened in the Southern Oregon and California coast ESU (63 FR 11482, March 9, 1998); and sea-run cutthroat trout (*Oncorhynchus clarki*), a candidate species for listing (62 FR 37561, July 14, 1997), which was listed as a federal threatened species in April 1997.

Under the ESA, “take” of a listed species may arise from significant habitat modification that results in injury or death to the species. Because PALCO’s harvest of old-growth trees in marbled murrelet habitat and near streams would likely result in take of listed species, PALCO desires to obtain incidental take permits (ITPs) from FWS (for marbled murrelet and other wildlife and resident fish) and from NMFS (for salmon and steelhead) under Section 10 of the ESA. To obtain an ITP, PALCO must prepare a habitat conservation plan (HCP) that minimizes and mitigates take and avoids jeopardy to the ITP’s covered species, and CDFG must approve the conservation measures in the HCP that relate to state-listed species and other covered species.

California’s Forest Practice Rules (FPRs), Section 913.11, require PALCO to achieve the goal of maximum sustained production of high-quality timber products while addressing values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment (Public Resources Code Section 4513). This requirement can be satisfied through submittal of a sustained yield plan (SYP) that CDF subsequently approves. Among other things, the SYP must ensure protection of threatened and endangered species. CDF must consult with CDFG regarding project effects on endangered species and appropriate mitigation. CDF must also consult with CDFG with regard

to the EIR pursuant to Public Resources Code Section 21104. PALCO submitted a SYP to CDF on December 17, 1996.

Public controversy and legal proceedings involving PALCO’s logging of its timberlands, particularly old-growth redwoods, have occurred in recent years (Bari, 1994; Harris, 1995; De Angelo and De Angelo, 1998). During this time, several unsuccessful attempts have been made to acquire the Headwaters and Elk Head Springs forests.

In September of 1996, PALCO’s desire to obtain ITPs, a desire on the part of the federal and state governments to provide permanent protection for the Headwaters and Elk Head Springs forests, and the parties’ mutual desire to resolve the ongoing public controversy and litigation led to an agreement on September 28, 1996 (Agreement) (Appendix A). In brief, the Agreement provides for the following:

- Transfer of the Headwaters and Elk Head Springs forests and other timberlands to public ownership in exchange for other property and assets
- Submission of an HCP by PALCO for expedited processing by FWS and NMFS in order to issue the ITPs
- Approval of a SYP by CDF for PALCO’s timberlands that remain in PALCO’s ownership after the acquisition

The Agreement which was to expire on February 28, 1998, under its original terms, has been extended by the parties. During the period the Agreement remains in effect, PALCO agreed not to harvest any acreage within the Headwaters or Elk Head Springs forests.

Subsequent to the Agreement, federal legislation was enacted authorizing an appropriation of money to purchase the Headwaters Forest, Elk Head Springs Forest, and Elk River Timber Company property (Elk River Property) in place of

the exchange of land and other property contemplated under the September 1996 Agreement. Public Law 105-83, enacted by Congress in October 1997, appropriates up to \$250 million from the Land and Water Conservation Fund as the federal government's share of the acquisition cost of the Headwaters Forest, Elk Head Springs Forest, and Elk River Property (Appendix B). Consistent with the earlier Agreement, the legislation provides for retention of 1,845 acres of Elk River Timber Company property by the United States and California and transfer of the remaining 7,755 acres of that property to PALCO as partial payment for the Headwaters Forest and Elk Head Springs Forest.

Under the federal legislation, the following conditions must be met on or before March 1, 1999, to render the appropriation effective:

- The FWS and NMFS must issue ITPs to PALCO under Section 10 of the ESA based on a multiple-species HCP covering PALCO's lands.
- An appraisal of the lands to be acquired by the United States must be completed and an opinion of value issued by the Secretary of the Interior to both houses of Congress.
- The state of California must approve a SYP covering PALCO's lands.
- Adequate public access to the Headwaters Forest and Elk Head Springs Forest lands acquired by the United States and California must be provided.
- The state of California must provide a \$130 million contribution as the state's share of the Headwaters Forest, Elk Head Springs Forest, and Elk River Property.
- PALCO must dismiss its Fifth Amendment takings lawsuits currently pending against the United States and the state of California.

The federal legislation also authorizes the Secretary of the Interior to establish a Headwaters Forest Management Trust with the concurrence of the Governor of California to direct management of the Headwaters Forest and other lands acquired by the federal and state governments.

On February 27, 1998, MAXXAM, PALCO, and the federal and state governments reached conceptual agreement on the terrestrial and aquatic habitat conservation strategies to be incorporated by PALCO into the draft HCP (see Appendix C, which also includes a correction to some of the acreages discussed in the draft HCP).

Subsequently, on August 31, 1998, the California state legislature passed Assembly Bill 1986 (AB 1986) which appropriates \$130 million to the Wildlife Conservation Board as the state's share of the cost of acquiring the Headwaters Forest, Elk Head Springs Forest, and Elk River Property ("Headwaters acquisition") in furtherance of the Agreement. Like the federal legislation, AB 1986 requires that incidental take permits covering PALCO's lands be issued before the appropriation becomes effective.

The state legislation also conditions the expenditure of state funds for the Headwaters acquisition on the inclusion of several provisions in the final HCP, Implementation Agreement (IA), and incidental take permits (ITPs). Those provisions include the following:

- Establishment of a 100-foot, no-cut buffer on each side of each Class I watercourse until, following completion of a watershed analysis, site-specific prescriptions for the watercourse have been established by FWS or NMFS and implemented by PALCO
- Establishment of a 30-foot, no-cut buffer on each side of each Class II

watercourse until, following completion of a watershed analysis, site-specific prescriptions for the watercourse have been established by FWS or NMFS and implemented by PALCO

- A requirement that the restrictions applicable to all Class I, II, and III watercourses contained in the January 7, 1998, document entitled *Corrected Version Draft - Interagency Federal-State Aquatic Strategy and Mitigation for Timber Harvest and Roads for the Pacific Lumber Company* (which is attached as Appendix E) remain in effect until, following completion of a watershed analysis for each watercourse, site-specific prescriptions for the watercourse have been established by FWS or NMFS and implemented by PALCO
- A requirement that the site-specific prescriptions established by FWS or NMFS result in no-cut buffers of not less than 30 feet and not more than 170 feet on each side of each Class I and Class II watercourse, except that no-cut buffers of less than 30 feet on Class II watercourses (but no less than allowed under the draft HCP) may be established where either of the Services determines a smaller buffer would benefit aquatic species or habitat
- Development of a peer review process by FWS and NMFS in consultation with CDF, CDFG, and North Coast Regional Water Quality Control Board (NCRWQCB) to evaluate, on a spot-check basis, the analyses and prescriptions developed through the watershed analysis process
- Establishment of a schedule that results in completion of the watershed analysis process in five years
- A prohibition of timber harvesting, including salvage logging and other management activities detrimental to the marbled murrelet and marbled murrelet habitat within the marbled

murrelet conservation areas (MMCAs) identified in the draft HCP, for the life of the ITPs as defined in the February 27, 1998, Pre-Permit Application Agreement in Principle

- A five-year moratorium on timber harvesting, including salvage logging and other management activities, within the Grizzly Creek MMCA, to provide an opportunity for the purchase and permanent protection of the area
- Inclusion of conditions on road-related activities that are, on balance, no less protective of species and habitat than the provisions contained in the Pre-Permit Application Agreement in Principle
- A requirement that PALCO submit, at least 30 days prior to its approval by CDF, each timber harvesting plan (THP) covering lands included in the HCP to FWS and NMFS for review and comment and for a finding that the THP is consistent with the final HCP

Under the state legislation, expenditure of the funds appropriated for the Headwaters acquisition and adjacent lands also requires that the final HCP is no less protective of aquatic or avian (i.e., bird) species than the draft HCP as amended by the conditions in the legislation.

The state legislation also appropriates up to \$80 million to fund the future purchase of the Owl Creek MMCA and, to the extent funds appropriated for the purchase of Owl Creek remain after such purchase, for the purchase of the Elk River Property and the previously unlogged Douglas-fir forest lands within the Mattole River Watershed. In addition, the legislation appropriates up to \$20 million to fund the purchase of the Grizzly Creek MMCA. While the above appropriations for the Owl and Grizzly Creek MMCAs and other identified areas cannot be encumbered unless the final HCP, IA, and ITPs include the previously described conditions, those purchases would

not be a component of the HCP, ITPs, and SYP.

The state legislation appropriates an additional \$15 million in economic assistance to Humboldt County conditioned on approval of the HCP, ITPs, and SYP.

The legislation also provides the following:

- Nothing in the legislation shall affect the authority of CDF to approve or disapprove the THPs under state or federal law.
- The SYP and any subsequent SYPs for PALCO referenced in the September 28, 1996, Agreement, and any timber harvest plans prepared by PALCO covering lands subject to the final HCP adopted pursuant thereto, shall comply with the conditions set forth in the legislation and with the applications for ITPs, HCP, and IA as described in the July [14,] 1998 Federal Register Notice and may not be any less protective than the provisions of the legislation. Nothing in the legislation shall be construed as requiring CDF to make any additional findings relative to HCPs pursuant to the legislation, other than those findings that are already required [by] the law as it read on the effective date of the legislation.
- The final approval or disapproval of the draft HCP is exclusively within the jurisdiction of federal law and those agencies that implement federal law.
- It is the intent of the legislature in authorizing the expenditure of funds under the legislation and in establishing conditions on the use of those funds, that the final HCP approved by the FWS and the NMFS will incorporate the conditions set forth in the legislation and not be any less protective of aquatic or avian species than the provisions of the legislation.

Because the issuance of an ITP is a federal action, it is subject to review under the National Environmental Policy Act (NEPA). An EIS is a document required under NEPA for major federal actions or legislative proposals significantly affecting the human environment. An EIS is a decision-making tool that describes reasonable alternative actions and the positive and negative effects of those actions.

Approval of a SYP is a CDF action requiring environmental review under CEQA pursuant to FPRs promulgated under the Z'berg-Nejedly Forest Practices Act. The regulation of timber harvesting on non-federal lands by CDF is a certified regulatory program under CEQA. Under these rules, CDF need not prepare an EIR, but may prepare a functional equivalent document. Although not legally required, for this SYP, CDF has elected to comply with CEQA by preparing an EIR.

Impacts considered under NEPA and CEQA are not limited to species listed under the ESA and CESA, but include all impacts affecting the human environment. The DEIS/EIR also addresses the potential acquisition of the lands of a third party, the Elk River Timber Company, which would be used as partial payment for PALCO's property.

This DEIS/EIR is designed to accomplish the following:

- Inform the public of the proposed action and alternatives
- Address public comments received during the scoping period
- Disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives
- Indicate any irreversible commitment of resources that would result from implementation of the proposed action

The DEIS/EIR follows the EIS format established by the Council on Environmental Quality (CEQ) regulations implementing NEPA.

The EIS/EIR process is an open and full-disclosure process, as required by NEPA and CEQA. The processes, decisions, and purposes and needs described in this EIS/EIR are introduced in this section. In addition, issues, alternative actions, related legislation, and executive orders (EOs), which form the basis for analyses of impacts, are also introduced below.

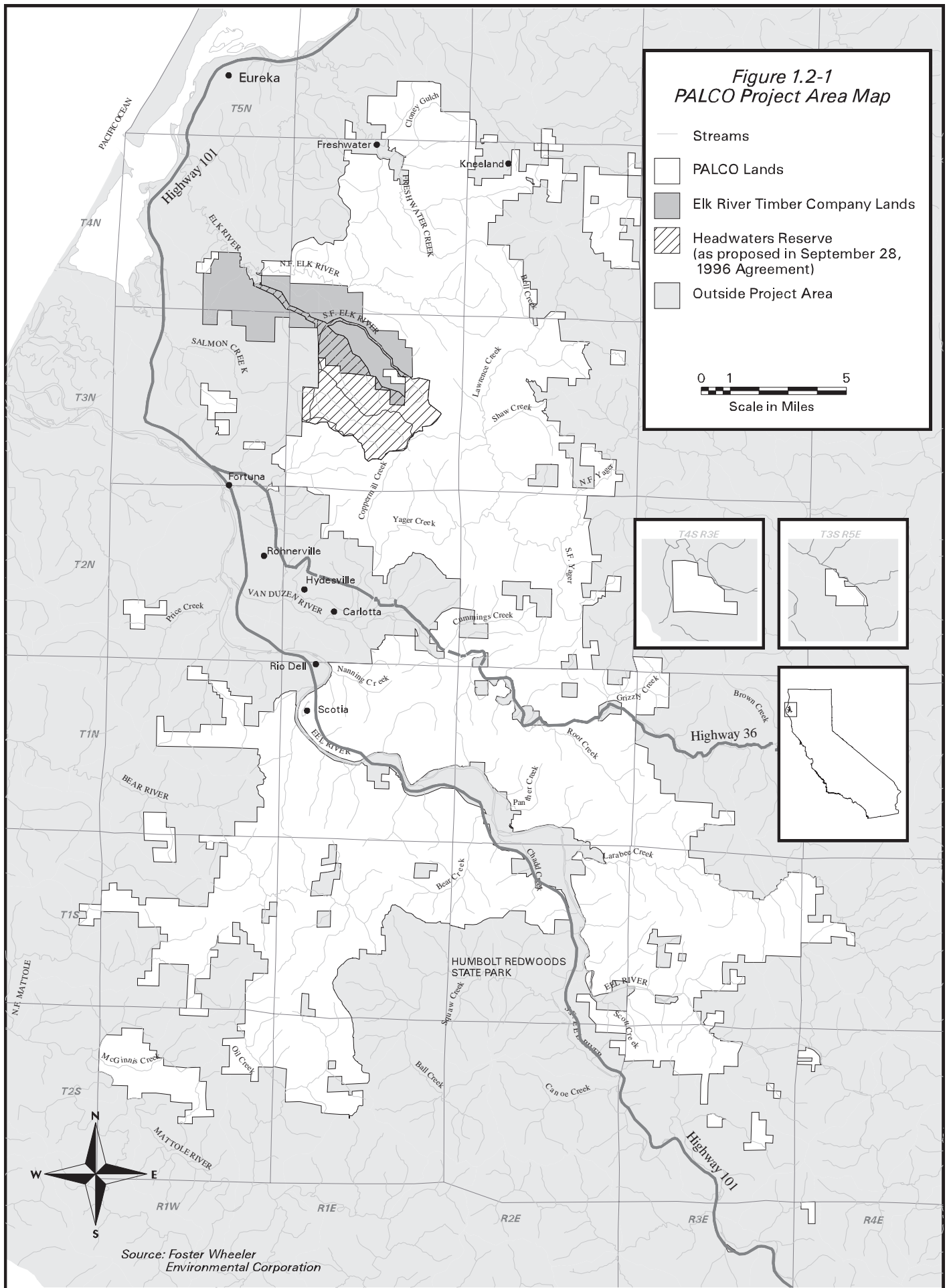
1.2 PROPOSED ACTIONS

The Secretary of the Interior, FWS, NMFS, CDF, CDFG, and Wildlife Conservation Board propose the following actions. These actions address the need to protect endangered and threatened species and other biological resources on PALCO's land, while facilitating compatible sustained production of timber products. They also would provide permanent protection for the Headwaters and Elk Head Springs forests through transfer into public ownership and would lessen public controversy over PALCO's management of its timberlands. These actions would be consistent with the Agreement and Public Law 105-83 and AB 1986:

- Acquisition by the United States and California from PALCO of the Headwaters and the Elk Head Springs forests, which together include about 3,117 acres of old-growth redwood stands (Figure 1.2-1).
- Funding by the United States and the state of California for the purchase of approximately 9,600 acres of Elk River Timber Company property (Figure 1.2-1), about 7,704 acres of which would be transferred to PALCO as additional consideration for the Headwaters and Elk Head Springs forests, and 1,764 acres of which would be transferred to

the United States and the State of California and preserved as a buffer for the Headwaters Forest (Figure 1.2-1). (The combined area of the acquired Headwaters and Elk Head Springs forests, plus the Elk River property to be transferred to the United States and California, is about 7,500 acres.)

- Transfer by the United States and California of \$380 million to PALCO and the Elk River Timber Company as payment for the Headwaters Forest, Elk Head Springs Forest, and the Elk River Timber Company Property.
- Processing by the United States (i.e., FWS and NMFS) of federal ITPs covering PALCO's timberlands based on an HCP that meets the requirements of the ESA and other applicable laws and regulations and incorporates the "No Surprises" rule codified at 50 Code of Federal Regulation (CFR) 17.3, 17.22(b)(5) and (6), 17.32(b)(5) and (6) for the FWS and 50 CFR 222.3 and 222.22(g) and (h) for the NMFS.
- Processing by California (i.e., CDF) of PALCO's SYP, including measures or plans addressing state and federal-listed species.
- Processing by California (i.e., CDFG) of a state ITP that meets the requirements of the CESA and other applicable laws and regulations.
- Processing by California (i.e., CDFG) of a streambed alteration agreement pursuant to Fish and Game Code Sections 1600 to 1607.
- Processing by California (i.e., CDFG) of a Natural Community Conservation Plan pursuant to Section 2835 of the Natural Community Conservation Plan (NCCP) Act.



1.3 FEDERAL HABITAT CONSERVATION PLANS

The ESA establishes protection for species listed as threatened or endangered and provides for authorization of certain impacts to listed species in accordance with criteria established under the Act. A fundamental protection provided under the Act is the prohibition against take of listed species.

The ESA defines “take” as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, and/or collect a protected species, or the attempt to engage in any such conduct (ESA, Section 3[19]). “Harm” is further defined under the ESA’s implementing regulations to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3 [FWS]). “Incidental take” is defined as take that is incidental to, and not the purpose of the carrying out of, an otherwise lawful activity (Section 10[a]). Incidental take that is likely to result from the actions of state or local governments, corporations, or private individuals may be authorized under Section 10 of the ESA. The secretaries of the Interior and Commerce are authorized under Section 10 to issue ITPs for listed species under their respective jurisdictions when the criteria provided in Section 10(a)(2)(B) of the ESA are satisfied. The secretaries of the Interior and Commerce have delegated authority to administer the ESA, including issuance of ITPs to, respectively, FWS and NMFS.

In order to issue an ITP, FWS and NMFS must make the following findings under Section 10(a)(2)(B):

- The proposed take will be incidental to an otherwise lawful activity.

- The impacts of the proposed taking will be minimized and mitigated to the maximum extent practicable.
- The applicant has ensured that adequate funding will be provided to implement the measures proposed in the HCP.
- The proposed take will not appreciably reduce the likelihood of survival and recovery of the species in the wild.
- Other measures required by FWS and NMFS as necessary or appropriate for purposes of the plan will be met.

A complete application package for an ITP includes the completed permit application form, a completed draft of the HCP, and, usually, a draft IA. The HCP, in accordance with Section 10(a)(2)(A) and federal regulations at 50 CFR 17.22(b)(1)(iii) and 17.32(b)(1)(iii)(C), must specify the following:

- A complete description of the activity sought to be authorized
- The impacts likely to result from the proposed taking of one or more federally listed species
- The measures the applicant will implement to monitor, minimize, and mitigate such impacts, the available funding to undertake these measures, and the procedures to be used to address unforeseen circumstances
- Alternatives to the proposed taking that were considered and rejected and the reasons why they are not proposed to be utilized
- Additional measures FWS or NMFS may require as necessary or appropriate for purposes of the plan

Receipt of the completed HCP package starts the formal application processing by FWS and NMFS. The agencies then prepare an environmental analysis of the draft plan in accordance with NEPA. Once FWS and NMFS determine that the

package is complete, and following review of public comments on the draft HCP and IA and NEPA document, they determine whether the Section 10(a) criteria for permit issuance are satisfied, and whether the permits should be issued.

PALCO has submitted a draft HCP to the FWS and NMFS in support of the issuance of ITPs for the northern spotted owl, marbled murrelet, coho salmon, the bald eagle, the western snowy plover, and the American peregrine falcon (which are listed under the ESA), and for several other species that might be listed in the future, some of which are proposed or are candidates for listing under the federal and/or state ESAs.

PALCO's draft HCP incorporates the "No Surprises" rule which is codified at 50 CFR 17.3, 17.22(b)(5) and (6) (FWS) and 50 CFR 222.3 and 222.22(g) and (h) (NMFS). This rule provides regulatory assurances to an ITP permittee that no land use restrictions or financial compensation beyond that provided for under the HCP will be required of the permittee with respect to species adequately covered under the HCP to address unforeseen circumstances without the consent of the permittee. The rule provides regulatory assurances to PALCO regarding overall costs of mitigation, provided that PALCO is in compliance with the permit and IA and is properly implementing the HCP.

The draft IA for the PALCO ITP sets forth the general obligations, rights, and assurances of PALCO and the permitting agencies regarding implementation of the HCP, and it incorporates procedures to address unforeseen and changed circumstances, amendments to the HCP, and remedies should any party fail to meet its HCP obligations. As such, the IA includes the following elements:

- Obligations, benefits, rights, authorities, liabilities, and privileges

- Responsibilities for planning, approving, and implementing specific HCP measures
- Agency responsibilities for implementing or monitoring the HCP conservation program
- Habitat protection measures
- Term
- Funding
- HCP amendment process
- HCP enforcement and remedies for failure of any party to perform its HCP obligations

PALCO has submitted a draft HCP to FWS and NMFS that may lead to the issuance of an ITP for listed species, including the northern spotted owl, marbled murrelet, coho salmon, and other species that might be listed in the future, some of which are proposed or are candidates for listing under the federal or state ESAs.

1.4 CALIFORNIA SUSTAINED YIELD AND TIMBER HARVEST

PALCO's lands are zoned as timberland production zones. Under state law, their use is restricted to growing and harvesting timber and to compatible uses (Government Code Section 5110 et seq.). In enacting the Z'berg-Nejedly Forest Practices Act, California Public Resources Code Sections 4511 et seq., the California legislature declared an intent to ensure that, where feasible, the productivity of timberlands is restored, enhanced, and maintained. Furthermore, the goal of maximum sustained production of high-quality timber products is to be achieved while considering values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment (Pub. Res. Code Section 4513).

PALCO must meet the requirements of maximum sustained production per Section 913.11. Essentially, the FPRs require individuals or companies who own more than 50,000 acres of timberland and submit THPs to demonstrate that their proposed timber operations will meet sustained production of landowner specified products while balancing harvest and growth. This requirement can be fulfilled by preparation of a SYP under the FPR adopted by the California Board of Forestry (BOF) pursuant to the Forest Practice Act. FPR Sections 1091.1 through 1091.14, found in Title 14 of the California Code of Regulations, spell out the requirements for preparation and use of SYPs. The SYP is a recent requirement, and few SYPs have been approved.

A SYP is a comprehensive management plan. It covers watershed and wildlife concerns, as well as traditional harvest scheduling, for entire ownerships. Each SYP is predicated on a planning horizon of 100 years. However, a SYP is effective for no more than 10 years before it must be updated and resubmitted for review and reapproval [PRC Section 4551.3(a)]. A SYP consists of a sustained timber production assessment, a fish and wildlife assessment, and a watershed assessment. The sustained timber production assessment evaluates and calculates the long-term growth and harvest outlook for the land under consideration. The fish and wildlife assessment entails a full range of natural resource concerns, related to the conditions and management of fish and wildlife. The watershed assessment ensures that beneficial uses of water downstream are not negatively affected by timber operations.

SYPs are normally processed as stand-alone planning documents. In this case, PALCO and CDF agreed to add the EIR process to provide greater efficiencies, given that the federal agencies would be preparing an EIS for the HCP and the ITP under the ESA.

Further, the parties believed that the public would more easily understand the process if a combined EIS/EIR were prepared because the NEPA and CEQA review procedures would be similar. Future SYPs may be processed without a companion EIR.

1.4.1 Timber Harvest Regulation on State and Private Timberlands

The process of regulating timber harvesting on private and state-owned lands in California occurs under the Z'berg-Nejedly Forest Practice Act of 1973 (FPA) and CEQA. The nine-member BOF adopts regulations under authority of the FPA, and CDF administers those rules.

The FPA is intended to regulate timberlands to achieve two goals: to enhance, restore, and maintain the productivity of timberland wherever feasible, and to achieve maximum sustained production of high-quality timber while giving consideration to values relating to recreation, watersheds, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment.

CEQA and the FPRs require that CDF not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the project. The applicant must disclose and identify the significant effects of a project for state agency and public review. A substantially unmitigated adverse effect on a listed species would be a significant effect under CEQA.

The FPA emphasizes decision-making based on special rules. CEQA, in contrast, emphasizes case-by-case, open-ended analysis of proposed projects based on potential environmental impacts as offset or lessened by project alternatives and mitigation measures. The review of THPs is a melding of the two processes and has

been certified to use a functional equivalent for complying with CEQA (Pub. Res. Code Section 21080.5; 14 California Code of Regulations 15251[a]).

The foundation for the regulation of forest practices in California is the FPRs. Due to the variety of individual circumstances of timber harvesting in California, the FPRs are not strictly prescriptive. Flexibility is allowed to cover a wide variety of site-specific circumstances. However, the underlying principle and goal are to achieve the timber harvesting objective without causing a significant adverse impact to any forest resource.

As an example of the flexibility in the FPRs, CDF issued a letter advising private and public foresters of measures found in current literature that could be used in THPs to protect coho salmon under the FPRs. The April 29, 1997, document titled *Coho Salmon Considerations for Timber Harvesting Under the California Forest Practice Rules* (CDF, 1997b) addresses coho salmon biology, timber harvest impacts, and possible conservation measures. It encourages the registered professional forester (RPF) to seek input from knowledgeable fishery biologists when preparing plans.

In reviewing individual THPs, CDF complies with the Forest Practices Act (FPA), the FPRs, and CEQA through its certified functional equivalent program. Under the FPA, a THP must be prepared and signed by an RPF and submitted to CDF for review and approval for each timber harvest. CDF foresters examine each THP and determine whether the plan may have a significant impact on the environment and is in compliance with the FPA, CEQA, and other state and federal laws. CDF submits the THP to an interdisciplinary review potentially involving the Regional Water Quality Control Boards, CDFG, and the Division of Mines and Geology. Other agencies, such

as the Department of Parks and Recreation, may participate when the harvest has the potential to affect resources for which they are responsible. CDF chairs the review team and has the final decision on the THP. The other agencies may non-concur with the review team in writing and may appeal CDF's decision to the BOF.

A THP must include a description of the site to be harvested, the types of timber operations to be conducted, and the mitigation measures to be used consistent with BOF's rules and other applicable laws. Information concerning silvicultural systems, yarding methods, reforestation methods, erosion control methods, stream protection, cultural and historical resources, road building, and erosion hazard potential and erosion control measures must be included in the THP. The RPF must conduct a field investigation to apply the rules with respect to watercourse classification and protection measures, location of sensitive terrain, and development of appropriate mitigation measures or alternatives.

Each THP is subject to a pre-harvest inspection during the review process. All review team agencies are invited to attend. After the inspection, each attending agency can write a report and, if necessary, ask for mitigation for any activity that threatens to cause a significant effect on any forest resource or would violate any other state or federal law, such as the California ESA or the Porter-Cologne Act. The THP is also subject to public review. CDF considers all comments by the agencies and the public and prepares a written response to comments before making a decision on the THP. Most THPs have substantial mitigation applied before final approval.

1.5 CALIFORNIA ENDANGERED SPECIES ACT PROCESS

CESA generally prohibits the take of species listed under CESA as threatened or endangered, or candidates for such listing, except as otherwise authorized. Under CESA, take is defined as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. [Fish and Game Code § 86].” Two relevant CESA provisions would otherwise authorize take by the proposed project.

The first provision is Section 2081(b) of CESA, which provides that CDFG may authorize by permit the take of endangered or threatened species, or candidate species if (1) the take is incidental to an otherwise lawful activity, (2) the impacts of the take are minimized and fully mitigated, (3) the applicant has ensured adequate funding to both implement the measures to minimize and fully mitigate the impacts of take and monitor compliance with and the effectiveness of such measures, and (4) the issuance of the permit will not jeopardize the continued existence of the species. In accordance with CESA, the measures to minimize and fully mitigate the impacts of take shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to minimize and fully mitigate the impacts of take, the measures required shall maintain the applicant’s objectives to the greatest extent possible. In addition, all required measures shall be capable of successful implementation. Finally, Section 2081(b) requires that the permit be consistent with any regulations adopted pursuant to specified Fish and Game Code sections. Because no such regulations have been adopted to date, this requirement is not relevant to the present process.

The proposed project may result in the take of species listed as threatened or

endangered under CESA, or candidates for such listing. Therefore, pursuant to Section 2081(b) of CESA, PALCO has submitted an application for an ITP, which includes an HCP and an IA. If CDFG finds, after CEQA review and public comment, that the application meets the requirements of Section 2081(b), CDFG may issue an ITP authorizing take of such species.

The second provision of CESA that authorizes take is Section 2091, if the take is in compliance with alternatives or measures specified in a written finding of the CDFG pursuant to Section 2090 of CESA. Section 2090 generally requires each state lead agency to consult with CDFG to ensure that any action authorized, funded, or carried out by the state lead agency is not likely to jeopardize the continued existence of any endangered or threatened species. As a result of such consultation, CDFG is required to issue a written finding based on its determination of whether a proposed project would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of the species. The written finding shall also include CDFG’s determination of whether a proposed project would result in taking of an endangered or a threatened species incidental to the proposed project.

CDF is the state lead agency for the proposed project. As such, CDF is required to consult with CDFG to ensure that the SYP authorized by CDF is not likely to jeopardize the continued existence of any endangered or threatened species. As a result of that consultation, CDFG must issue a written finding as described above.

However, Section 2090 et seq. expires on January 1, 1999. Therefore, the consultation will end on January 1, 1999, prior to its completion and CDFG’s issuance of written findings. As a result, no take will be authorized pursuant to Section 2091.

1.6 CALIFORNIA STREAMBED ALTERATION AGREEMENT PROCESS

Fish and Game Code Section 1603 generally prohibits persons from substantially diverting or obstructing the natural flow or substantially changing the bed, channel, or bank of any river, stream, or lake designated by CDFG, or from using any material from the streambeds, unless they have first notified CDFG of the activity. All rivers, streams, and lakes in California have been designated by CDFG, pursuant to California Code of Regulations, Title 14, Section 720. In addition, Section 1603 generally prohibits persons from commencing any activity affected by Section 1603 until CDFG has found that the activity will not substantially adversely affect an existing fish or wildlife resource, or until CDFG proposals, or the decisions of a panel of arbitrators assembled pursuant to procedures set forth in Section 1603, have been incorporated into the activity.

CDFG enters into lake or streambed alteration agreements (1603 Agreements) with those persons who notify CDFG of their proposed activities pursuant to Section 1603 in cases where CDFG determines the activities may substantially adversely affect an existing fish or wildlife resource. A 1603 Agreement sets forth the proposals that CDFG and the notifying person agree will be incorporated into the proposed activities. Upon execution of a 1603 Agreement, the notifying person may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by CDFG or use any material from the streambeds, so long as the activities are conducted in accordance with the terms of the 1603 Agreement. Section 1603 authorizes CDFG to enter into

1603 Agreements for a term not to exceed five years for performance of the proposed activities. In accordance with Section 1603, a 1603 Agreement will renew automatically upon the expiration of its term, unless CDFG determines that there has been a substantial change in conditions.

PALCO has notified CDFG generally of its proposed activities. Certain of those activities may involve substantially diverting or obstructing the natural flow or substantially changing the bed, channel, or bank of rivers, streams, or lakes or may involve using material from the streambeds. These activities may substantially adversely affect existing fish and wildlife resources. While PALCO has not identified the specific locations and dates of these proposed activities, standard conditions can be developed to ensure that these proposed activities, wherever and whenever they may occur, do not substantially adversely affect such fish and wildlife resources. Therefore, PALCO has requested a five-year master 1603 Agreement for certain of its proposed activities and has proposed standard conditions to protect fish and wildlife resources. The 1603 Agreement would enable PALCO to conduct specified activities in accordance with the terms and conditions of the 1603 Agreement, after giving notice to CDFG of the specific time and location of the proposed activity.

If PALCO determined that compliance with any of the conditions of the 1603 Agreement was not feasible, PALCO would be required to notify CDFG of the proposed activity and to enter into a separate individual 1603 Agreement pursuant to the procedures set forth in Section 1603. In addition, PALCO would also be required to notify and enter into a 1603 Agreement with CDFG for any proposed activities affected by Section 1603

that are not the subject of the proposed 1603 Agreement.

If CDFG finds, after CEQA review and public comment, that the proposed 1603 Agreement adequately protects fish and wildlife resources, CDFG may execute the 1603 Agreement authorizing the specific proposed activities in accordance with the terms thereof.

1.7 CALIFORNIA NATURAL COMMUNITY CONSERVATION PLANNING PROCESS

CDFG may authorize the take of any identified species, including unlisted species, pursuant to Section 2835 of the Natural Community Conservation Planning Act (NCCP Act) if the conservation and management of such species is provided for in a CDFG-approved Natural Community Conservation Plan (NCCP). The NCCP Act requires that an NCCP identify and provide for the regional or area-wide protection and perpetuation of natural wildlife diversity, while allowing compatible and appropriate development and growth.

PALCO has recently asked that CDFG determine whether the draft HCP qualifies as an NCCP under the NCCP Act. If CDFG finds, after CEQA review and public comment, that the draft HCP meets the requirements of the NCCP Act, CDFG may approve the HCP as an NCCP and may authorize the take of the identified species pursuant to Section 2835 of the NCCP Act.

1.8 OTHER KEY PROCESSES

1.8.1 U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a cooperating agency in the project, providing technical assistance and advice in areas under its jurisdiction. EPA

has regulatory authority under NEPA to review and comment on the environmental impacts of major federal actions.

Region 9 EPA, headquartered in San Francisco, California, coordinates the implementation of federal environmental laws in California. The Region Administrator cooperates closely with the state, local, and tribal governments in California to ensure that regional needs are considered and that NEPA and other federal environmental laws are properly implemented. EPA will review the EIS/EIR for compliance with federal requirements.

Pursuant to the Clean Water Act (CWA) and Coastal Zone Act Reauthorization Amendments, EPA is responsible for overseeing California management and protection of water quality and activities which impact the integrity of aquatic systems. In particular, pursuant to CWA Section 303(d), California is required to identify those waters that are not meeting or are not expected to meet water quality standards and to develop attainment strategies for these waters (i.e., total maximum daily loads [TMDLs]). PALCO owns land in watersheds targeted for development of TMDLs. Thus, EPA has an interest in providing comments on the PALCO SYP and HCP, as well as the necessary technical and administrative guidance so that PALCO can achieve CWA goals and, eventually, TMDL requirements.

The California State Water Resources Control Board (CSWRCB) and the North Coast Regional Water Quality Control Board (NCRWQCB) have the authority and responsibility to comply with the provisions of the CWA. Section 303(d) of the CWA requires California to (1) identify waters that do not or are not expected to meet applicable water quality standards, (2) prioritize identified waters and target high-priority waters for development of TMDL plans, and (3) develop TMDL plans for

Clean Water Act, Section 303(d) List of Impaired Waterbodies that Flow Through PALCO Lands

River	Listed Pollutant(s)	TMDL Completion Date
Eel River (Middle Main Fork)	Sediment, Temperature	1999
Eel River (Delta)	Sediment	2004
Van Duzen River (Below Bridgeville)	Sediment	1999
Yager Creek	Sediment	1999
Mattole River	Sediment, Temperature	2002
Mad River	Sediment, Turbidity	2007
Freshwater Creek	Sediment	2010
Elk River	Sediment	2011

listed waters that will achieve water quality standards and restore beneficial uses.

EPA defined the necessary components of a TMDL plan as the following:

1. *Problem Statement*—A description of the waterbody/watershed setting, beneficial use impairments of concern, and pollutant or stressors causing the impairment.
2. *Numeric Target*—For each pollutant or stressor identified in the TMDL, a numeric target(s) based on numeric or narrative water quality standards which express the desired condition.
3. *Source Analysis*—An assessment of relative contributions of sources to the use impairment and extent of needed discharge reductions/controls.
4. *Allocations of Responsibility*—Allocation of pollution control or restoration responsibility among different sources of concern (wasteload and load allocations).
5. *Implementation Plan*—A specific plan of action describing how necessary controls/restoration actions will be accomplished and who is responsible.

6. *Monitoring Plan*—A plan to monitor the effectiveness of the implementation plan in restoring the beneficial uses and a schedule for reviewing/revising the TMDL.

Implementation of the above components should result in the improvement of water quality and the restoration of the beneficial uses of an impaired waterbody.

Pursuant to Section 303(d), EPA, the State Water Resources Control Board (SWRCB), and the NCRWQCB listed the following waterbodies within PALCO's ownership as having threatened or impaired beneficial uses of water:

The above waterbodies have been identified as having fisheries and other beneficial uses that are impaired due to excessive sediment, debris loading, and increased temperatures from historical logging activity, gravel mining, and livestock grazing. Forest management activities are an important land use within these watersheds and a major component of any TMDL plan development or watershed assessment.

The NCRWQCB and EPA will review the EIS/EIR and HCP for data and mitigation measures useful in the TMDL process. The EIS/EIR, however, is not a formal TMDL process or plan. A TMDL will be developed

separately from the EIS/EIR process on the schedule listed above.

1.8.2 Bureau of Land Management

Originally, part of the purchase of PALCO properties was to involve a transfer of land and other federal and state assets, including oil and gas revenues under BLM management. However, PALCO rejected all properties and assets offered by the federal and state governments. Subsequent passage of PL 105-83 and AB 1986, which appropriate federal and state funds for the purchase of the PALCO and Elk River Timber Company properties, rendered transfer of federal and state assets unnecessary; therefore, BLM decisions regarding federal assets are no longer required.

1.9 PURPOSE AND NEED FOR ACTION

The purpose and need for the proposed actions is to (1) protect, in accordance with the federal and state of California endangered species acts (ESAs), species listed as threatened or endangered under one or both of the acts; (2) to provide for sustained production of timber products consistent with federal and state laws, including the federal and state ESAs, by PALCO; (3) provide permanent protection for the Headwaters Forest and Elk Head Springs Forest through their transfer into public ownership; and (4) reduce public controversy regarding PALCO's management of its timberlands, particularly the Headwaters Forest and Elk Head Springs Forest.

1.9.1 FWS' and NMFS' Responsibilities and Authorities

The overarching purposes of the ESA are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and to provide a program for the conservation of

such species. In general, under ESA, FWS has jurisdiction over terrestrial species and resident aquatic species, while NMFS has jurisdiction over migratory aquatic species.

FWS' and NMFS' responsibilities, therefore, are to protect, in accordance with the ESA, species listed as threatened and endangered and other sensitive species on PALCO's ownership and, to the extent consistent with these responsibilities, to accommodate through the issuance of ITPs compatible timber harvest and associated activities. Such accommodation will occur if the agencies determine that all permit issuance criteria are satisfied, and all other applicable legal requirements are met.

1.9.2 CDF Responsibilities and Authorities

CDF will use the joint EIS/EIR to evaluate the SYP submitted by PALCO. The document will also be reviewed by other state and local agencies. CDF will determine whether the SYP satisfies the requirements of maximum sustained production in the FPR and whether the SYP satisfactorily protects fisheries, watersheds, and wildlife. CDF will use the EIS/EIR to identify potentially significant adverse impacts and to determine whether the SYP includes feasible measures to avoid or mitigate those impacts.

The HCP documents how implementation of the SYP will protect listed fish and wildlife species. Measures required to protect fish and wildlife will be incorporated into the SYP as constraints on timber management and long-term sustained yield (LTSY).

CDF approves a SYP for up to 10 years. This EIS/EIR will be considered in the approval process. A midpoint review of the SYP can be conducted after five years, if requested by the interested parties. THPs submitted under the approved SYP may rely on the SYP to address evidence that the THP achieves maximum sustained

productivity and, to the extent covered in the SYP, watershed and wildlife protection.

The EIS/EIR will be used with later THPs for the property in the manner of a program EIR. A program EIR can examine the large-scale issues involved with the project, especially with regard to alternatives, cumulative impacts, and program-wide mitigation measures (FPR Section 1092). Later activities within the program could be examined in the light of the program EIR to determine whether additional environmental analysis would be required. If no new effects would occur, or no new mitigation measures would be required, CDF could approve the activity as being within the scope of the project covered by the program EIR, and no new environmental documentation would be required.

This EIS/EIR would be referenced in THPs for its analysis of the environmental effects. Each THP would be evaluated in the light of the analysis in the SYP and EIS/EIR, and the protective measures in the THP would be checked against the mitigation identified in the SYP and EIS/EIR. Any environmental effects of a THP that were not covered in the SYP and EIS/EIR would have to be addressed in that THP.

1.9.3 CDFG Responsibilities and Authorities

CDFG's responsibility is to protect fish and wildlife resources and, in accordance with CESA, species which are listed, or are candidates for listing under CESA and, to the extent consistent with that responsibility, to accommodate compatible timber harvest and other specified activities on PALCO's lands. Such accommodation will occur provided CDFG determines that all permit issuance criteria are satisfied, and other applicable legal requirements are met. PALCO has applied to the CDFG for three authorizations:

- A 50-year ITP under Section 2081(b) of CESA that would authorize PALCO to take threatened, endangered, and candidate species incidental to PALCO's proposed activities in accordance with the HCP and IA
- A five-year 1603 Agreement that would authorize PALCO to lawfully substantially divert or obstruct the natural flow, or substantially change the bed, channel or bank of any river, stream, or lake, or use any material from the streambeds on PALCO's property by conducting certain of its proposed activities in accordance with the HCP and IA, as well as other more specific measures set forth in the 1603 Agreement
- A 50-year authorization to take species identified in an NCCP pursuant to the NCCP Act.

CDFG is a responsible agency under CEQA for purposes of these authorizations. In accordance with CEQA, CDFG will consider the EIS/EIR in determining whether and how to approve the proposed project pursuant to such authorizations.

1.10 DECISIONS

1.10.1 Federal Decisions

Under Public Law 105-83, the Secretary of the Interior must decide whether the conditions established under that statute have been met to render effective the appropriation for the purchase of the federal share of the Headwaters and Elk Head Springs forests and Elk River Property, including adequate provision for public access to the acquired lands. If the Secretary determines the conditions have been satisfied, he must decide whether to proceed with the acquisition. Should the Secretary of the Interior choose to acquire lands, it is expected that Bureau of Land Management (BLM) would be the Interior Department bureau to conduct the land

acquisition process. The Secretary has identified BLM as the agency within the Interior Department that would administer the transferred lands on behalf of the federal government if the purchase goes forward. Consistent with Public Law 105-83, a specific management plan would be developed and circulated for public review and comment under NEPA. Pending completion of specific management plans, management would be guided by the conservation purposes for which the lands were acquired. Those purposes are described in Section 2.5.

The FWS and NMFS must decide whether to issue the ITPs and sign the IA.

1.10.2 State Decisions

The California Resources Agency, with input from CDFG and CDF, must decide whether the conditions established in AB 1986 have been met to enable the Wildlife Conservation Board to fund the state's share of the Headwaters and Elk Head Springs forests and Elk River Property acquisition.

CDF must decide whether the SYP is in conformance with the California FPRs. CDF is the lead agency for the CEQA part of the EIS/EIR process. It is responsible for certifying the EIR and making required findings under CEQA. As lead agency, CDF is required under Section 2090 et seq. of CESA to consult with CDFG to ensure that the SYP is not likely to jeopardize the continued existence of any endangered or threatened species. Pursuant to that consultation, CDFG must make specific findings regarding the SYP. It must specify to CDF reasonable and prudent measures that are necessary and appropriate to minimize the adverse impacts of any take incidental to the SYP. In addition, as a responsible agency, CDFG must decide whether to issue an ITP pursuant to Section 2081 of CESA based on PALCO's application, whether to approve the HCP as

an NCCP and thereby authorize take of identified species under the NCCP Act, and whether to execute the proposed 1603 Agreement.

1.11 PROJECT LOCATION

The lands involved in this project are described briefly below. Detailed descriptions of the physical, biological, and social aspects of these areas are provided in Chapter 3, Affected Environment and Environmental Effects.

1.11.1 PALCO Land

PALCO's ownership, including lands to be acquired under the Agreement, covers approximately 211,000 acres of mountainous terrain used for commercial timber production for over 120 years (Figure 1.2-1). The ownership produces primarily redwood and Douglas-fir. Lands next to PALCO property include large industrial commercial timber operations, small commercial timber operations and other private parcels, public parks and reserves, and other government lands (PALCO, 1998). Other uses of private lands include grazing, agriculture, and residential development. PALCO lands lie in the watersheds of the Elk, Van Duzen, Eel, Bear, and Mattole rivers. A major portion of the ownership in the Van Duzen watershed is in the Yager Creek drainage.

1.11.2 Agreement Reserve

The 7,500-acre Headwaters Reserve (Reserve) parcels include Headwaters Forest, Elk Head Springs Forest, and Preserved Elk River Timber property (Figure 1.2-1). The Reserve parcels lie in the South Fork Elk River and the Salmon Creek watersheds, which drain westward into Humboldt Bay. Public Law 105-83 designates the land to be transferred to the United States and the State of California as the "Headwaters Forest," while AB 1986 refers to such lands as the "Headwaters

Forest Preserve.” In this document, however, the term “Headwaters Forest” will be used as in the Agreement, only for the approximately 4,500-acre forest area. The entire area to be transferred into United States and State of California ownership will be called the Reserve.

1.11.3 Elk River Timber Company Land

The Elk River Timber Company is a separate company not associated with PALCO or MAXXAM. Elk River Timber Company lands identified in the Agreement include approximately 9,500 acres that abuts the Headwaters and Elk Head Springs forests and extends northwest from them (Figure 1.2-1). These lands also lie primarily in the South Fork Elk River drainage. The portion of Elk River Timber Company lands identified for inclusion in the Reserve are south of Little South Fork Creek and next to Headwaters Forest. Additionally, a 150-foot buffer along each side of South Fork Elk River would be part of the Reserve. Elk River Timber Company lands identified for transfer to PALCO include an area between the strip of Reserve along South Fork Elk River and Little South Fork Creek.

1.12 SCOPING AND PUBLIC INVOLVEMENT

1.12.1 Scoping

The FWS, in cooperation with NMFS, the BLM, EPA, the USDA Forest Service, the California Resources Agency, CDF, and CDFG conducted a joint public scoping process for preparation of the EIS/EIR in accordance with NEPA and CEQA requirements. The FWS circulated the Notice of Intent pursuant to the CEQ regulations for implementing NEPA (40 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be considered in the EIS/EIR.

Notices of the public meetings and of the intent to prepare this joint EIS/EIR for the federal and state actions associated with furthering the purposes of the Agreement were published in the Federal Register (FR) on December 27, 1996, in Volume 61, beginning at page 68,285. A subsequent FR notice announcing an additional scoping meeting was published on January 9, 1997, in Volume 62, beginning at page 1,339. Copies of the FR publications were made available to the public at each public meeting. Additional printed information on the issues was available at the registration table at each public meeting. CDF issued a notice of preparation on January 10, 1997. In addition, legal notices, news releases, and a media advisory were issued. Newspapers involved included the *Oakland Tribune*, the *San Francisco Chronicle*, the *Eureka Times Standard*, the *Fortuna Herald Beacon*, the *Los Angeles Times*, the *Redding Record Searchlight*, the *Sacramento Bee*, and the *Bakersfield Californian*.

Oral and written public comments on the scope of the alternatives and environmental effects to be examined in the consideration of this proposed project were to have been received by February 18, 1997. Written comments were given the same consideration as any oral comments. After review and consideration of these comments, the FWS and the other cooperating agencies compiled information necessary to prepare the EIS/EIR.

Six scoping meetings were held throughout California to receive public comments on all aspects of the proposal. The dates and locations of the meetings are as follows:

- January 16, 1997 Oakland
- January 23, 1997 Bakersfield
- January 28, 1997 Redding
- January 30, 1997 Sacramento
- February 5, 1997 Eureka
- February 11, 1997 Manhattan Beach

A transcript of all oral comments given at each public meeting was prepared to preserve them for the record. These transcripts are part of the administrative record for this process. Written comments were submitted to the staff at the registration table at each meeting, or mailed to Mr. Bruce Halstead, U.S. Fish and Wildlife Service, 1125 Sixteenth Street, Room 209, Arcata, California 95521. Issues raised formed the basis for analyses in this EIS/EIR.

Approximately 2,690 written responses and 520 oral comments were received during the formal scoping period. About 1,970 written comments were also received before and after the formal scoping period. Each written or oral comment was reviewed and assigned one or more comment codes corresponding to its meaning. These codes were developed from the comments, with new codes added when new issues, concerns, alternatives, or recommendations were raised during the comment review.

Comments were sorted into two categories: (1) those comments to be addressed in detail in the DEIS/EIR, and (2) comments not to be considered further in the DEIS/EIR. Comments were identified for no further consideration in the DEIS/EIR if they presented legal or policy issues, were outside the scope of the DEIS/EIR, were too remote or speculative for detailed analysis, or related to the potential exchange of federal and state lands and other assets which have been replaced by federal and state appropriations to purchase the Headwaters Reserve. The scoping report for the project (Appendix D) describes each specific kind of comment and the justification for those not considered further in the DEIS/EIR.

1.12.2 Drafts of the EIS/EIR, HCP/SYP, and IA

The public will have 45 days to review and comment on this draft EIS/EIR. Oral or

written comments on this DEIS/EIR may be provided at any of the four public hearings. The dates, locations, and times of these hearings are as follows:

- Thursday, October 29, 1998, Sacramento Convention Center, 1030 15th Street, Rooms 307-308, Sacramento, California; from 1 to 4 p.m., and from 6 to 9 p.m.
- Tuesday, November 5, 1998, Oakland Marriott City Center, 550 10th Street, West Hall, Oakland, California; from 1 to 4 p.m., and from 6 to 9 p.m.
- Thursday, November 3, 1998, Redwood Acres Fairground Franceschi Hall, 3750 Harris Street, Eureka, California; from 9 to 11 a.m., from 1 to 4 p.m., and from 6 to 9 p.m.
- Tuesday, November 10, 1998, Bayview Plaza Hotel, 530 West Pico Blvd., The Penthouse Ballroom, Santa Monica, California; from 1 to 4 p.m., and from 6 to 9 p.m.

Written comments on the DEIS/EIR may be submitted to the staff at the registration table at a hearing or mailed to Allen Robertson, California Department of Forestry and Fire Protection, State Headquarters, P.O. Box 944246, Sacramento, California 94244-2460. Written comments must be received by November 16, 1998. Comments on the SYP may be mailed to John Munn, California Department of Forestry and Fire Protection, State Headquarters, P.O. Box 944246, Sacramento, California 94244-2460 (Fax: 916-653-8957). All comments must be received by November 16, 1998. The draft HCP/SYP comment period has been extended to November 16, 1998, to coincide with the draft EIS/EIR comment period.

Comments regarding the DEIS/EIR, ITP Application, Plan, and Implementation Agreement should be addressed to Bruce Halstead, U.S. Fish and Wildlife Service, 1125 16th Street, Room 209,

Arcata, California 95521-5582. Written comments may be sent by facsimile to (707) 822-8411. All comments must be received by November 16, 1998. Please refer to permit number PRT-828950 and number 1157 when submitting comments. The draft HCP/SYP comment period has been extended to November 16, 1998, to coincide with the draft EIS/EIR comment period.

Copies of the draft EIS/EIR, or portions thereof, can be obtained at the following copy centers for duplication and mailing charges: Sir Speedy, 601 North Market Boulevard, 350, Sacramento, California 95834, (916) 927-7171; Kinko's, 2021 Fifth Street, Eureka, California 95501, (707) 445-3334; Kinko's, Stanyan Street and Geary Boulevard, San Francisco, California 94118, (415) 750-1193; and Kinko's, 835 Wilshire Boulevard, Suite 100, Los Angeles, California 90017, (213) 892-1700. The draft EIS/EIR is available at The California Environmental Resources Evaluation System website at <http://ceres.ca.gov/> and through the Fish and Wildlife Service website at <http://www.r1.fws.gov/text/species.html>. Copies of the draft EIS/EIR will be available on compact disc which, along with paper copies of a EIS/EIR summary, can be obtained by contacting the Fish and Wildlife Service, 1125 16th Street, Room 209, Arcata, California 95521-5582, (707) 822-7201.

The documents are also available for review at the following government offices and libraries:

Government Offices

California Department of Forestry and Fire Protection, Humboldt-Del Norte Ranger Unit, 118 South Fortuna Boulevard, Fortuna, California 95540, (707) 725-4413; California Department of Forestry and Fire Protection, Coast-Cascade Region Headquarters, 135 Ridgeway Avenue, P.O. Box 670, Santa Rosa, California 95401,

(707) 576-2959; California Department of Forestry and Fire Protection, State Headquarters, 1416 Ninth Street, Room 1516-4A, Sacramento, California 95814, (916) 653-5843; Fish and Wildlife Service, Coastal California Fish and Wildlife Office, 1125 16th Street, Room 209, Arcata, California 95521-5582, (707) 822-7201; Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino Avenue, Suite 120, Sacramento, California 95821-6310, (916) 979-2710; National Marine Fisheries Service, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404-6515, (310) 980-4001; and California Department of Fish and Game, 619 Second Street, Eureka, California 95501, (707) 441-5672.

Libraries

Alameda Free Library, 2264 Santa Clara Avenue, Alameda, California 94501-4506, (510) 748-4669; Alameda County Library, 2450 Stevenson Boulevard, Fremont, California 94538-2326, (510) 505-7001; Anaheim Public Library, 500 W. Broadway, Anaheim, California 92805-3699, (714) 765-1810; Berkeley Public Library, 2090 Kittredge Street, Berkeley, California 94704-1491, (510) 644-6100; California State Library, Information and Reference Center, 914 Capitol Mall, Room 301, Sacramento, California 95814, (916) 654-0261; Colusa County Free Library, 738 Market Street, Colusa, California 95932-2398, (530) 458-7671; Contra Costa County Library, 1750 Oak Park Boulevard, Pleasant Hill, California 94523-4497, (510) 646-6423; Del Norte County Library District, 190 Price Mall, Crescent City, California 95531-4395, (707) 464-9793; Humboldt County Library, 1313 Third Street, Eureka, California 95501-1088, (707) 269-1900; Humboldt State University Library, Humboldt State University, Arcata, California 95521, (707) 826-4939; Lake County Library, 1425 N. High Street, Lakeport, California 95453-3800, (707) 263-8816; Long Beach Public Library, 101

Pacific Avenue, Long Beach, California 90822-1097, (562) 570-6291; Los Angeles Public Library, 630 W. Fifth Street, Los Angeles, California 90071-2097, (213) 228-7515; County of Los Angeles Public Library, 7400 E. Imperial Highway, Downey, California 90242-7011, (562) 940-8462; Marin County Free Library, 3501 Civic Center Drive, San Rafael, California 94903-4188, (415) 499-6051; Mendocino County Library, 105 N. Main Street, Ukiah, California 95482-4482, (707) 463-4491; Menlo Park Public Library, 800 Alma Street, Menlo Park, California 94025-3460, (650) 858-3460; Mountain View Public Library, 585 Franklin Street, Mountain View, California 94041-1998, (650) 903-6335; National City Public Library, 200 E. 12th Street, National City, California 91950-3314, (619) 336-4280; Newport Beach Public Library, 1000 Avocado Avenue, Newport Beach, California 92660, (714) 717-3800; Oakland Public Library, 125 14th Street, Oakland, California 94612-4397, (510) 238-3633; Ontario City Library, 215 E. C Street, Ontario, California 91764-4198, (909) 988-8481; Orange Public Library (under renovation), El Modena Branch Library (alternative), 380 S. Hewes, Orange, California 92869, (714) 288-2471; Orange County Public Library, 1501 E. St. Andrew Place, Santa Ana, California 92705, (714) 566-3000; Oxnard Public Library, 251 South A Street, Oxnard, California 93030-5750, (805) 385-7500; Palo Alto City Library, 1213 Newell Road, Palo Alto, California 94303-2999, (650) 329-2516; Pasadena Public Library, 285 E. Walnut Street, Pasadena, California 91101-1598, (626) 744-4033; Redwood City Public Library, 1044 Middlefield Road, Redwood City, California 94063-1868, (650) 780-7061; Sacramento Public Library, 828 I Street, Sacramento, California 95814-2589, (916) 264-2770; San Bruno Public Library, 701 Angus Avenue W., San Bruno, California 94066-3490, (650) 877-8878; San Francisco Public Library, 100 Larkin Street, San Francisco, California 94102-4796, (415) 557-

4400; San Jose Public Library, 180 W. San Carlos Street, San Jose, California 95113-2096, (408) 277-4822; San Mateo Public Library, 55 W. Third Avenue, San Mateo, California 94402-1592, (650) 377-4685; San Mateo County Library, 25 Tower Road, San Mateo, California 94402-4000, (650) 312-5258; San Rafael Public Library, 1100 E Street, San Rafael, California 94901-1907, (415) 485-3323; Santa Barbara Public Library, 40 E. Anapamu Street, Santa Barbara, California 93101, (805) 962-7653; Santa Clara Public Library, 2635 Homestead Road, Santa Clara, California 95051-5322, (408) 984-3236; Santa Clara County Library, 1095 N. Seventh Street, San Jose, California 95112-4446, (408) 293-2326; Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060-3873, (408) 429-3532; Santa Monica Public Library, 1343 Sixth Street, Santa Monica, California 90401-1610, (310) 458-8608; Shasta County Library, 1855 Shasta Street, Redding, California 96001-0460, (530) 225-5769; Siskiyou County Free Library, 719 Fourth Street, Yreka, California 96097-3381, (530) 842-8175; Sonoma County Library, Third and E Streets, Santa Rosa, California 95404-4400, (707) 545-0831; South San Francisco Public Library, 840 W. Orange Avenue, South San Francisco, California 94080-3124, (650) 829-3872; Tehama County Library, 645 Madison Street, Red Bluff, California 96080-3383, (530) 527-0607; Trinity County Free Library, 211 N. Main Street, Weaverville, California 96093-1226, (530) 623-1373; Ventura County Library Services, 800 S. Victoria Avenue, Ventura, California 93009, (805) 662-6756; Central Library, 801 SW. 10th Avenue, Portland, Oregon 97205, (503) 248-5123; Houston Public Library, 500 McKinney Street, Houston, Texas 77002, (713) 247-2222; National Clearinghouse Library, 624 Ninth Street, NW, 600, Washington, D.C. 20425, (202) 376-8110; and New York Public Library, 455 Fifth Avenue, New York, New York 10016, (212) 340-0849.

1.12.3 Final EIS/EIR

The lead agencies will respond to each comment and prepare a final EIS/EIR.

1.12.4 Federal Record of Decision and State Certification/Notice of Determination

The federal Record of Decision on the EIS, as well as state certification of the EIS/EIR and a Notice of Determination, will be executed after publication of the final EIS/EIR. A federal permit decision will not be made any sooner than 30 days from the date of publication of the final EIS/EIR. California and federal decisions are anticipated in February 1999.

1.12.5 Issuance of State Determination of Conformance for SYP

Public involvement in the Determination of Conformance process for the SYP includes a minimum 90-day public review and comment period which extends over the public review period for the DEIS/EIR.

1.13 LEGISLATION AND EXECUTIVE ORDERS RELATED TO THIS EIS/EIR

- Federal Land Policy and Management Act of 1976
- American Indian Religious Freedom Act of 1978
- Endangered Species Act of 1973
- National Environmental Policy Act of 1969
- National Forest Management Act of 1976 (as amended)
- Clean Water Act
- Clean Air Act
- Coastal Zone Management Act
- National Historic Preservation Act of 1966
- Executive Order 11988 (floodplains)
- Executive Order 11990 (wetlands)

- Executive Order 11593 (cultural)
- Executive Order 12898 (environmental justice)
- Executive Order 13007 (Indian Sacred Sites)
- Magnuson-Stevens Fishery Conservation and Management Act
- Public Law 105-83
- Secretarial Order: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act
- Assembly Bill 1986
- California Environmental Quality Act
- California Endangered Species Act
- California Fish and Game Code Section 1600 et seq.
- California Natural Community Conservation Planning Act
- Z'berg-Nejedly Forest Practice Act of 1973
- California Surface Mining and Reclamation Act of 1975
- California Fish and Game Code Sections 3503.5 (Birds of Prey or Eggs), 3505 (Take, Sell, or Purchase Aigrette or Egret, Osprey, Bird of Paradise, Gourea, or Numid), 3511 (Fully Protected Birds), 4700 (Take or Possess Fully Protected Mammals Prohibited)